IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

WP(C).No. 34583 of 2007(P)

PETITIONERS:

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1. GOPALAN PILLAI, S/O.SANKARA PILLAI,
   THANDANTAZHIKATHU VEEDU, THAZHATHUVADAKKU P.O.,
   PATTAZHI VADAKKEKARA VILLAGE,PATHANAPURAM TALUK,
   KOLLAM DISTRICT.

2. RAMACHANDRAN PILLAI, S/O.GOPALA PILLAI,
   THANDANTAZHIKATHU VEEDU, THAZHATHUVADAKKU P.O.,
   PATTAZHI VADAKKEKARA VILLAGE,PATHANAPURAM TALUK,
   KOLLAM DISTRICT.

BY ADV. SRI.R.SURAJ KUMAR
SMT.GEETHA P.MENON

RESPONDENTS:

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1. STATE OF KERALA,
   REPRESENTED BY THE SECRETARY TO GOVERNMENT OF
   KERALA, GOVERNMENT SECRETARIAT,THIRUVANANTHAPURAM.

2. THE COMMISSIONER OF LAND REVENUE,
   PUBLIC OFFICE BUILDING, MUSEUM JUNCTION,
   THIRUVANANTHAPURAM, PIN-695 033.

3. THE DISTRICT COLLECTOR,
   CIVIL STATION P.O., KOLLAM.

4. THE REVENUE DIVISIONAL OFFICER,
   CIVIL STATION P.O., KOLLAM.

5. THE ADDITIONAL TAHSILDAR,
   PATHANAPURAM TALUK, PUNALUR P.O., PUNALUR.

6. THE VILLAGE OFFICER,
   PATTAZHI P.O., PATTAZHI VADAKKEKARA,
   PATHANAPURAM TALUK, KOLLAM DISTRICT.

BY GOVT. PLEADER SRI I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

W.P.(C) 34583 OF 2007

Dated: December 7, 2007

JUDGMENT

Petitioner who has lost concurrently before the original authority, appellate authority and the revisional authority in proceedings under the Land Conservancy Act has filed this writ petition.

2. Exts.P1 and P2 are the notices issued and Ext.P3 is the order that was passed by the 5th respondent. In Ext.P3 it has been found that there has been unauthorised mining, removal and appropriation of 300M³ of sand from Kallada river and that the accused are found jointly and severally guilty of the offence. Its is on that basis fine has been imposed and the value of the sand is ordered to be realised. This finding of the 5th respondent has been confirmed in Ext.P7, the appellate order passed by the 4th respondent. Against that order also, petitioner filed revision, which was disposed of by Ext.P8 order of the 2nd respondent in which also the finding of fact arrived at by the 5th respondent and confirmed by the appellate authority has been reconfirmed.

3. Petitioner submits that he was not served with a copy of the mahazar. However, that is not an issue that was raised or dealt with by

either the original authority, appellate authority or the revisional authority. Therefore I am not inclined to permit the petitioner to raise this matter for the first time in these proceedings.

4. Yet another complaint that he raised is that there was no opportunity to adduce evidence. Here also I am not inclined to agree with the counsel for the petitioner. This is a proceeding under the Land conservancy Act which cannot be equated with criminal proceedings where strict rules are applicable. Petitioner has been given reasonable opportunity to explain his case. No case has been made out that he had made any request in this behalf. The authorities have also considered his contentions and in view of this I am not inclined to go into the merit of the contention raised regarding the denial of opportunity.

5. However, I notice that in Ext.P8 even after finding that there has been violations, leniency has been shown as compensation and value ordered to be realised has been reduced.

6. In view of all these, I do not find any merit in this writ petition. However, having regard to the facts now urged before me by the counsel for the petitioner, I direct that the time for payment will stand extended by one month.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE

mt/-